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Attorneys for Plaintiff, JOHN ESPINOZA

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOHN ESPINOZA, an individual,

Plaintiff,

-vs-

CITY OF IMPERIAL, a public entity;
MIGUEL COLON, an individual; IRA
GROSSMAN, an individual; and DOES 1
THROUGH 50, inclusive,

Defendants.

CASE NO.: 07CV2218 LAB (RBB)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO CITY
OF IMPERIAL'S MOTION TO STRIKE
PORTIONS OF PLAINTIFF'S FIRST
AMENDED COMPLAINT**

*Assigned to: Hon. Larry Alan Burns, Courtroom
9, 2nd Floor*

MOTION

DATE: June 2, 2008

TIME: 11:15 a.m.

COURTROOM: 9

Action Filed: 11/20/07

1 **MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO CITY OF**
2 **IMPERIAL'S MOTION TO STRIKE PORTIONS OF PLAINTIFF'S FIRST AMENDED**
3 **COMPLAINT**
4

5 In opposition to Defendants' Motion to Strike Portions of the Complaint, it would appear
6 that Defendants' position has some merit. However, Plaintiff asserts that striking the Paragraphs
7 in their entirety, as requested by Defendants, would improperly remove material portions of the
8 Complaint and would unduly prejudice Plaintiff.
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12 LAW OFFICES OF VINCENT J. TIEN
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14 Dated: May 16, 2008

By: s/Vincent J. Tien
VINCENT J. TIEN, Attorneys for Plaintiff, JOHN
ESPINOZA
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 17291 Irvine Boulevard, Suite 150, Tustin, California 92780.

On May 19, 2008 I caused to be served the foregoing documents described as:
MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO CITY OF IMPERIAL'S MOTION TO STRIKE PORTIONS OF PLAINTIFF'S FIRST AMENDED COMPLAINT the parties in this action by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

David M. White, Esq.
Susan L. Oliver, Esq.
Mina Miserlis, Esq.
WHITE, OLIVER & AMUNDSON
550 West C Street, Suite 950
San Diego, California 92101

Jeffrey P. Thompson, Esq.
Jennifer K. Berneking, Esq.
DECLUES, BURKETT & THOMPSON, LLP
17011 Beach Blvd., Ste. 400
Huntington Beach, CA 92647-7455

___ BY MAIL: I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Tustin, California. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on the same day in the ordinary course of business. I am aware that on the motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

___ BY EXPRESS SERVICE CARRIER: I deposited in a box or other facility regularly maintained by ___, an express service carrier, or delivered to a courier or driver authorized by said carrier to receive documents, each such envelope, in an envelope designated by the said express service carrier, with delivery fees paid for.

xx BY FACSIMILE: I caused the foregoing documents to be sent to the addressee(s) above via facsimile.

___ BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee above.

___ (STATE) I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.

xx (FEDERAL) I declare that I am employed in the office of the member of the bar of this court, at whose direction this service was made.

Executed this 19th day of May 2008 at Tustin, California.

s/Vincent J. Tien

VINCENT J. TIEN, Declarant.